

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA

Bryantavious Murray,	)	C/A No.: 1:17-220-RBH-SVH
	)	
Plaintiffs,	)	
	)	
vs.	)	
	)	
Geoffrey Rice, Rank Lt.; Jeremey	)	REPORT AND RECOMMENDATION
McCary, Rank Sgt.; Ronald Cook, Rank	)	
Lt.; and James Tompkins, Rank Lt.,	)	
each being sued in their individual	)	
capacity,	)	
	)	
Defendants.	)	
	)	

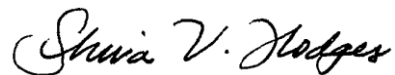
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Bryantavious Murray (“Plaintiff”), proceeding pro se and in forma pauperis, filed this action pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights during his incarceration at McCormick Correctional Institution (“MCI”) in the custody of the South Carolina Department of Corrections (“SCDC”). Plaintiff sues the following SCDC officers: Geoffrey Rice, Jeremy McCrary, Ronald Cook, and James Tompkins (“Defendants”), asserting violations of his constitutional rights.

This matter comes before the court on Plaintiff’s motion to voluntarily dismiss this action “so that [he] can file it properly and with the right courts.” [ECF No. 47]. Defendants responded to the motion indicating that they consent to the motion if Plaintiff’s federal causes of action are dismissed with prejudice, as they had spent considerable resources preparing their summary judgment motion addressing Plaintiff’s claims under federal law. [ECF No. 48]. Plaintiff did not file a reply.

Federal Rule of Civil Procedure 41(a)(2) provides that an action may be dismissed at the plaintiff's request by court order, on terms that the court considers proper. Plaintiff has indicated he does not wish to pursue his claims in federal court and the undersigned recommends his motion for voluntary dismissal be granted. The undersigned further recommends that the dismissal should be with prejudice as to his federal claims and without prejudice as to his state claims. If the district judge accepts this recommendation, Defendants' motion for summary judgment will be rendered moot.

IT IS SO RECOMMENDED.

A handwritten signature in black ink that reads "Shiva V. Hodges". The signature is written in a cursive, flowing style.

June 9, 2017  
Columbia, South Carolina

Shiva V. Hodges  
United States Magistrate Judge

**The parties are directed to note the important information in the attached  
“Notice of Right to File Objections to Report and Recommendation.”**

## **Notice of Right to File Objections to Report and Recommendation**

The parties are advised that they may file specific written objections to this Report and Recommendation with the District Judge. Objections must specifically identify the portions of the Report and Recommendation to which objections are made and the basis for such objections. “[I]n the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

Specific written objections must be filed within fourteen (14) days of the date of service of this Report and Recommendation. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b); *see* Fed. R. Civ. P. 6(a), (d). Filing by mail pursuant to Federal Rule of Civil Procedure 5 may be accomplished by mailing objections to:

Robin L. Blume, Clerk  
United States District Court  
901 Richland Street  
Columbia, South Carolina 29201

**Failure to timely file specific written objections to this Report and Recommendation will result in waiver of the right to appeal from a judgment of the District Court based upon such Recommendation.** 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985); *Wright v. Collins*, 766 F.2d 841 (4th Cir. 1985); *United States v. Schronce*, 727 F.2d 91 (4th Cir. 1984).